

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES H. DONELL,

Plaintiff,

vs.

FIDELITY NATIONAL TITLE AGENCY OF
NEVADA, INC., et al.,

Defendants.

Case No. 2:07-cv-00001-KJD-PAL

ORDER

(Mtn for Leave - Dkt. #161)

On January 10, 2012, the court held a hearing on Defendant/Cross-Claimant Fidelity National Title Agency of Nevada, Inc.'s Motion for Leave Under Federal Rule of Civil Procedure 30(a)(2)(B) to Conduct Deposition of Connie Farris; Motion for Order Shortening Time (Dkt. #161). Randolph Howard appeared on behalf of Plaintiff James H. Donell, Permanent Receiver; Douglas Gerrard appeared on behalf of Defendant/Cross-Claimant Fidelity; Aaron D. Ford appeared on behalf of Defendant Rita Flood.

Connie Farris was the former principal of Global Express Capital Real Estate Investment Fund I, LLC (the "Fund"). Plaintiff James H. Donell has been pursuing claims on behalf of the Fund since he was appointed permanent receiver. Ms. Farris is a material witness regarding those claims. Fidelity asserts Ms. Farris' testimony is central to the claims in this case and relevant to the communications which took place over the course of the transactions at issue. In November, 2011, Ms. Farris was convicted of federal mail fraud charges and subsequently sentenced to twelve years in prison. At the hearing counsel did not know whether she had appealed her sentence, and had not spoken to her attorney to determine whether she would invoke or waive her Fifth Amendment right against self incrimination in response to any deposition question.

1 Because Ms. Farris is incarcerated, Federal Rule of Civil Procedure 30(a)(2)(B) requires a court
2 order to depose her.

3 Having reviewed and considered the matter and for good cause shown,

4 **IT IS ORDERED:**

- 5 1. Defendant/Cross-Claimant Fidelity's Motion for Leave Under Federal Rule of Civil
6 Procedure 30(a)(2)(B) to Conduct Deposition of Connie Farris; Motion for Order
7 Shortening Time (Dkt. #161) is GRANTED.
- 8 2. Counsel for Defendant/Cross-Claimant Fidelity shall forthwith confer with counsel for
9 Ms. Farris before regarding whether Ms. Farris intends to assert her Fifth Amendment
10 privilege against self-incrimination during her deposition.
- 11 3. If she does not intend to invoke her privilege against self incrimination, counsel for
12 Defendant shall schedule the deposition of Ms. Farris with the Bureau of Prisons to take
13 place no later than February 17, 2012.

14 Dated this 17th day of January, 2012.

15
16
17 
18 PEGGY A. LEEN
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23
24
25
26
27
28